IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CRIMINAL APPELLATE JURISDICTION

CRIMINAL APPLICATION NO. 5421 OF 2004

Devendra Ramchandra Chaturvedi ...Applicant

Versus

The State of Maharashtra & Anr. ...Respondents.

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Shri. P.M. Pradhan, Advocate for the applicant.

Shri. Ezaz Khan with Shri. D.N. Salvi, Advocates for Respondent No.2-C.B.I.

Shri. B.R. Patil, Acg.P.P. for Respondent No.1.

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CORAM: SMT. V.K. TAHILRAMANI, J.

DATED: 14TH DECEMBER, 2004

P.C.:-

1. Heard counsel for the parties.

2. In the present application, the applicant has prayed for bail in R.C. No. 44(A)/04 CBI ACB, Mumbai. The applicant had earlier preferred an application for bail before this Court which came to be rejected by order dated 30th November, 2004. In the said order, it has been observed that having regard to the complexity of the case and seriousness of the charge coupled with the fact that the investigation is still in progress, there

was no reason to consider the prayer for grant of bail. As that order was passed just a few days ago and it is an admitted fact that the investigation is still in progress, I was of the opinion that no new ground or fresh circumstance has been pointed out to this Court so as to necessitate reconsideration on the aspect of bail. Hence, application for bail came to be rejected.

3. Shri. P.M. Pradhan, the learned counsel for the applicant submitted that the applicant is not pressing his application for bail and he is seeking only limited prayer i.e. the trial Court be directed to hear the application of the applicant for bail on merits. However, in my opinion, in view of the order of this Court dated 30.11.2004, it was not possible for me to pass such order while investigation is going on, hence the said prayer also came to be rejected.

4. A few minutes after the above order was passed but before it was signed, the learned advocate for the applicant prayed that he may be allowed to withdraw this application. However, the counsel for respondent-C.B.I. had left the court room, hence, I asked Mr. Pradhan to inform the counsel for C.B.I. and to ask him to remain present. Shri. Khan. Learned Counsel for C.B.I. appeared.

I heard him, he stated that he had no objection if the application is allowed to be withdrawn provided that the order reflects that the application was earlier rejected. Looking to all these facts the earlier order rejecting the application is recalled and permission is granted to withdraw this application.

5. The learned advocate for the applicant has prayed that after the investigation is over, the applicant be given liberty to file a fresh application for bail before the Trial Court. Shri. Salvi, learned counsel for C.B.I. has stated that he has no objection to the said prayer being granted. Liberty as prayed for granted. However, it is made clear that on such application being preferred the trial Court shall decide the same without being influenced by any observations made in this order.

6. Application stands disposed of as withdrawn.

7. Authenticated copy of this order be supplied to the parties.